

REMARKS

Reconsideration and reversal of the rejections presented in the Office Action dated January 16, 2007 are respectfully requested in light of the following.

The present application includes claims 1-18, 20-28, 30 and 31. With entry of this amendment, claims 12, 18, and 25 are amended, and claim 19 is canceled. More particularly, claims 12 and 25 have been amended to better define and further distinguish the present invention over the relied upon art. Claim 18 has been amended to include the subject matter of dependent claim 19, which the Examiner previously indicated recited allowable subject matter.

In the aforementioned Office Action, the Examiner rejected claims 1-4, 7-11, 18, 22, and 24 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,997,103 to Buchanan (hereinafter "Buchanan").

Buchanan discloses a screen 1 for installation within a motor car 2 having a window opening 3 provided with a glass panel 4 which slides between felt strips 5 mounted by means of mouldings 6 in car body members 7. The screen 1 is installed on the inside of the window opening 3 by means of a plurality of clips 11. Each clip 11 has a leg 13 which is arranged to be inserted between the moulding 6 and felt strip 5 on the inside the window opening 3.

Independent claim 1 recites a window barrier coupled to a vehicle door supported within a door frame comprising, *inter alia*, a first securing member releasably securing an upper frame member to the door, and a second securing member releasably securing a lower frame member to the door. Independent claim 1 further recites that a portion of at least one of the upper frame member and the first securing member is positioned intermediate the door frame and the door, such that movement of the upper frame member in a first direction is prevented by the door frame and movement of the upper frame member in a second direction opposite the first direction is prevented by the door.

It is well-known that "anticipation under 35 U.S.C. § 102 requires the disclosure in a single piece of prior art of each and every limitation of a claimed invention." Apple Computer, Inc. v. Articulate Systems, Inc., 57 USPQ2d 1057, 1061 (Fed. Cir. 2000), *citing Electromed Sys. S.A. v. Cooper Life Sciences*, 32 USPQ2d 1017, 1019 (Fed. Cir. 1994). Further, Federal Circuit decisions have held that a prior art publication must be enabling in

order to defeat novelty, that is to constitute an anticipation. "To anticipate, the reference must ... enable one of skill in the art to make and use the claimed invention." Transclean Corp. v. Bridgewood Services, Inc., 62 USPQ2d 1865, 1869 (Fed. Cir. 2002); Bristol-Meyers Squib Co. v. Ben Venue Laboratories, Inc., 58 USPQ2d 1508, 1512 (Fed. Cir. 2001).

It is respectfully submitted that Buchanan fails to disclose any structure positioned intermediate the door frame and the door for preventing movement of the window barrier by such positioning. More particularly, the clips 11 in Buchanan each include a leg 13 which is arranged to be inserted between the molding 6 and felt strip 5 on the inside of the window opening 3. There is simply no disclosure provided in Buchanan of how the upper clips 11 could possibly cooperate with the door and the door frame to prevent removal of the screen 1. In fact, Fig. 1 of Buchanan clearly shows that the clips 11 do not extend any significant distance beyond the window opening 3, much less into a position where the clips 11 would possibly be positioned intermediate the door frame and the door. Further, Buchanan suggests against the arrangement as recited in claim 1, which would prevent removal of the window barrier, since the clip mounting means described in Buchanan "may be easily and quickly installed in or removed from the window opening." (Col. 2, lines 34-35.)

The Examiner has failed to establish a *prima facie* case of anticipation. As such, it is respectfully submitted that claim 1, and the claims dependent therefrom, are in condition for allowance.

As noted above, claim 18 has been amended to incorporate the subject matter of claim 19. The Examiner previously indicated that claim 19 contains allowable subject matter. As such, it is respectfully submitted that claim 18, and the claims dependent therefrom, are in condition for allowance.

Claims 25-27 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,204,981 to Edwards (hereinafter "Edwards").

Edwards discloses a removable window guard including a main body portion 1 having an upper horizontal section 2 which carries a pair of projections in the form of lugs 6 which are Z-shaped to provide an upper horizontal flange 7, an upright flange 8, and a lower horizontal flange 9 fixed to the horizontal section 2 of the body portion 1.

Amended claim 25 recites, *inter alia*, a window barrier configured to be coupled to a vehicle door supported within a door frame and including an upper frame member, and a clip configured to releasably secure the upper frame member to the door. Claim 25 now further recites the clip as including a horizontal connector and first and second vertical arms extending in substantially parallel relation upwardly from the connector. Claim 25 also recites that the first arm is coupled to the upper frame member, and the second arm is positioned in spaced relation to the first arm and the window channel and is configured to operably couple with the door trim.

It is respectfully submitted that Edwards fails to disclose a clip including a horizontal connector and first and second vertical arms extending in substantially parallel relation upwardly from the connector. Instead, Edwards discloses lugs 6 including horizontal flanges 7 and 9 extending in opposite directions from an upright flange 8. Again, the Examiner has failed to establish a *prima facie* case of anticipation. For at least this reason, it is respectfully submitted that claim 25, and the claims dependent therefrom, are properly allowable over Edwards.

Claims 12-17, 28, 30, and 31 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,653,562 to Moss et al. (hereinafter "Moss et al.").

Moss et al. discloses an open air wire screen structure or safety guard including attachment rails 18 and 22 designed for temporary and reusable placement in the window channels of motor vehicles. The top rail 18 has a double channel 19-20 and an upright fin 21 above the double channel 19-20. The bottom rail 22 has a double channel 23-24 and a single channel 26 below the double channel 23-24 (Figs. 9 and 10). The safety guard is attached to an existing vehicle window channel in such a manner that single channel 26 of the bottom rail 22 is placed onto the upper edge of the open window glass, and the upright fin 21 of the top rail 18 is positioned to insert into the upper window channel. Moving the window glass slightly upward secures the upright fin 21 into the upper window channel (Col. 3, lines 50-57).

Amended claim 12 recites, *inter alia*, a window barrier configured to be supported by a vehicle door including an interior surface and a window panel, the window barrier including an upper frame member and a lower frame member. The lower frame includes a panel rest portion and a retaining flange, and a connecting portion connecting, and positioned

intermediate, the panel rest portion and the retaining flange. Claim 12 further recites that the panel rest portion extends inwardly and downwardly from the connecting portion, and that the retaining flange extends downwardly from the connecting portion. Claim 12 now further recites that at least one barrier element is supported by the connecting portion of the lower frame member such that the barrier element is laterally positioned intermediate the panel rest portion and the retaining flange.

It is respectfully submitted that Moss et al. fails to disclose a lower frame member including a panel rest portion, a retaining flange, and a connecting portion connecting, and positioned intermediate, the panel rest portion of the retaining flange, in combination with at least one barrier element supported by the connecting portion and the lower frame member, such that the barrier element is laterally positioned intermediate the panel rest portion and the retaining flange. These elements are simply missing in Moss et al. As such, the Examiner has failed to establish a *prima facie* case of anticipation. It is respectfully submitted that claim 12, and the claims dependent therefrom, are properly allowable over this reference.

Independent claim 28 recites, *inter alia*, a window barrier configured to be coupled to a vehicle door supported within a door frame, the vehicle door including a window panel supported within a window channel, the window barrier including a barrier frame, and an upper clip coupled to the barrier frame proximate the upper end. The upper clip includes a connector connecting a first arm and a second arm, wherein the connector is configured to be received intermediate the door frame and the door such that movement of the upper end of the barrier frame in a first direction is prevented by the door frame and movement of the upper end of the barrier frame in a second direction opposite the first direction is prevented by the door.

It is respectfully submitted that Moss et al. provides no disclosure of an upper clip coupled to a barrier frame and including an outwardly extending first arm, a downwardly extending second arm, and a connector connecting the first arm and the second arm, wherein the first arm extends in a substantially horizontal plane, and the second arm extends substantially perpendicular to the first arm. Moreover, Moss et al. discloses a single upright fin 21 which is positioned to insert into the upper window channel. As such, it is respectfully submitted that the Examiner has failed to establish a *prima facie* case of anticipation. For at

least this reason, it is respectfully submitted that claim 28, and the claims dependent therefrom, are properly allowable over this reference.

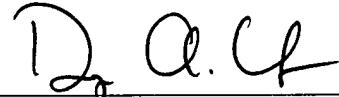
Applicants gratefully acknowledge the Examiner's indication that claims 5, 6, 19, 20, 21, and 23 include allowable subject matter.

For at least the foregoing reasons, it is respectfully submitted that all of the solicited claims are in condition for allowance. Such action is respectfully requested.

If necessary, applicants request that this response be considered a request for an extension of time appropriate for the response to be timely filed. Applicants request that any required fees needed beyond those submitted with this amendment be charged to the account of Baker & Daniels, Deposit Account No. 02-0390.

The Examiner is invited to contact the undersigned at the telephone number provided below should any question or comment arise during reconsideration of this matter.

Respectfully submitted,



Douglas A. Yerkeson, Reg. No. 39,882
Baker & Daniels LLP
300 North Meridian Street, Suite 2700
Indianapolis, Indiana 46204
Telephone: (317) 237-0300
Facsimile: (317) 237-1000
email: Doug.Yerkeson@bakerd.com